

THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) 3:17-CR-00169-B  
 )  
SAID AZZAM MOHAMAD RAHIM, )  
 )  
Defendant. )

TRANSCRIPT OF PROCEEDINGS  
PRETRIAL CONFERENCE  
BEFORE THE HONORABLE JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE  
APRIL 29, 2019

A P P E A R A N C E S

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LORENZO VIDINO, Ph.D.

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GOVERNMENT'S EXHIBITS ADMITTED:

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1 (In open court at 9:00 a.m.)

2 THE COURT: Good morning. Let's -- this  
3 is Case Number 3:17-CR-169, United States v. Azzam  
4 Mohamad Rahim. We are here this morning for the  
5 final pretrial conference. I would like to have the  
6 parties introduce themselves, who they are and who  
7 they represent, starting with the government.

8 MS. MARTIN: Yes, Your Honor. Errin  
9 Martin and Taryn Meeks for the government.

10 THE COURT: All right. And who is your  
11 third person?

12 MS. MARTIN: This is our case agent,  
13 Special Agent Dwayne Golomb with the FBI.

14 THE COURT: I recognize you now. I saw  
15 you in the tapes.

16 AGENT GOLOMB: Yes, ma'am.

17 MR. WHALEN: Good morning, Your Honor.  
18 James Whalen and Ryne Sandel for Mr. Rahim.

19 THE COURT: Okay. The first thing I would  
20 like to ask you about is the preadmitted exhibits.

21 Come up, Ms. Martin, and tell me which of  
22 their exhibits you agree to preadmit.

23 MS. MARTIN: Your Honor, I believe their  
24 exhibit list incorporated ours, so I think we will  
25 just go through the ones they agreed to of ours.

1 THE COURT: Okay. I just need to know  
2 which are government's exhibits and defense  
3 exhibits.

4 MS. MARTIN: The defendants do not  
5 currently have exhibits, so it would be government's  
6 exhibits.

7 THE COURT: Okay. All right. Mr. Whalen,  
8 are you okay with that?

9 MR. WHALEN: Yes, Your Honor.

10 THE COURT: All right. Go ahead.

11 MS. MARTIN: 1, 2, 3, 4, 5, 6, 31, 32, 33,  
12 35, 36, 41, 46, 48, 49, 50, 52, 53, 54, 56, 57, 58,  
13 60, 63, 68, 69; 70 for record purposes only.

14 THE COURT: Okay.

15 MS. MARTIN: One moment. And that's all  
16 Your Honor.

17 THE COURT: Okay. The following  
18 government's exhibits are preadmitted. 1, 2, 3, 4,  
19 5, 6, 31, 32, 33, 35, 36, 41, 46, 48, 49, 50, 52,  
20 53, 54, 56, 57, 58, 60, 63, 68, 69, and 78 for  
21 record purposes only.

22 What else did you have, Ms. Martin?

23 MS. MARTIN: One more thing about the  
24 government's exhibit list.

25 THE COURT: Will you come up here to the

1 lecturn?

2 MS. MARTIN: One more thing about the  
3 government's exhibits list.

4 Mr. Whalen alerted me to an arithmetic  
5 error that I committed on the exhibit list. It says  
6 \$7,000 in U.S. Currency, it should be 6,000. And  
7 because it was last minute, I wanted to seek leave  
8 to amend the exhibit just to change that number.  
9 That would be it.

10 THE COURT: Where are you going to change  
11 it? What exhibit is it on?

12 MS. MARTIN: It's one of the preadmitted,  
13 Your Honor.

14 THE COURT REPORTER: Is it 70 or 78 for  
15 record purposes?

16 THE COURT: Is it 70 or 78 for record  
17 purposes only?

18 MS. MARTIN: Seven zero.

19 THE COURT: 70, all right.

20 And what exhibit is it?

21 MS. MARTIN: That I'm speaking about, Your  
22 Honor?

23 THE COURT: Yes.

24 MS. MARTIN: Exhibit 49. It should be  
25 6,000 and not 7,000.

1 THE COURT: All right. Mr. Whalen, you  
2 agree with that?

3 MR. WHALEN: Yes, I have no objection.

4 THE COURT: We will let you reform that  
5 exhibit. What else did you have? Anything else?  
6 Anything on -- just anything, motions in limine,  
7 other anticipated evidentiary issues, all sorts of  
8 things, you know, that you think we need to talk  
9 about today.

10 MS. MARTIN: Your Honor, I believe we're  
11 prepared to address the expert Daubert hearing.  
12 Mr. Whalen and Mr. Sandel met with myself and  
13 Ms. Meeks on Friday. And we have one exhibit that  
14 has a business records authentication, but we have  
15 the witness here live.

16 Mr. Whalen indicated that he might be  
17 willing to accept the record if he could put some  
18 questions, you know, before it was -- before the  
19 jury was here. And I don't know if that's something  
20 we could resolve right now.

21 THE COURT: Yes. What about the expert?  
22 I thought he wasn't coming until Sunday night.

23 MS. MARTIN: He did come --

24 THE COURT: Oh, this last Sunday night.

25 MS. MARTIN: Yes, Your Honor.

1 THE COURT: You have him here?

2 MS. MARTIN: He is here in the courtroom.

3 THE COURT: Let's do that in a minute.

4 The other thing is what?

5 MS. MARTIN: Your Honor, Government's

6 Exhibit 110, I believe --

7 THE COURT: Okay. Okay. Okay.

8 Mr. Whalen, do you want to ask some

9 questions about that or something?

10 MR. WHALEN: Yes, Your Honor. It comes in  
11 relation to an affidavit signed by Agent Fine. And  
12 it relates to -- I think what he would testify to is  
13 that he compared the phone calls or certain calls to  
14 their hash values and authenticated them.

15 However, the questions I would want to ask  
16 him is: How were these calls collected? What  
17 method were they used to be collected? And I think  
18 that may go into FISA territory on the collection  
19 methods. So I wanted to be able to get into that,  
20 you know, for authentication purposes. But I think  
21 the government has a different opinion, so we have  
22 to figure out what I'm going to be able to ask him  
23 or not.

24 And the reason why I didn't agree to the  
25 affidavit in and of itself was because I still want



1 to be able to preserve that error if the Court rules  
2 that's FISA, that's classified, you can't get into  
3 that collection technique. I still want to be able  
4 to put on the record the questions I would have  
5 asked him that he's not allowed to answer and  
6 therefore preserve that objection.

7 THE COURT: Okay. I want to hear what  
8 those are. Do you want to ask them now?

9 MR. WHALEN: I can ask them whenever. We  
10 just have to see how they want to do it.

11 THE COURT: Ms. Martin. Ms. Meeks.

12 MS. MEEKS: Yes. Thank you, Your Honor.

13 Your Honor, we're retrieving the witness  
14 right now if the Court would like to pursue those  
15 lines of questions at this time.

16 Mr. Whalen is correct that the government  
17 would object to certain inquiries that would go into  
18 specifics.

19 THE COURT: Okay. So we're going to have  
20 two witnesses this morning?

21 MS. MEEKS: Yes, Your Honor. We have our  
22 expert here, as well.

23 THE COURT: Okay. Who do you have first?

24 MS. MEEKS: Our expert is here, Your  
25 Honor.

1 THE COURT: All right. Call the expert.

2 MS. MEEKS: We call Dr. Vidino.

3 COURT SECURITY OFFICER: Raise your right  
4 hand, please.

5 (Witness sworn.)

6 THE WITNESS: I do.

7 COURT SECURITY OFFICER: Have a seat, and  
8 state and spell your name.

9 THE WITNESS: Lorenzo Vidino, V-I-D-I-N-O.

10 MS. MEEKS: Thank you, Dr. Vidino.

11 Your Honor, I'm not sure how much the  
12 Court would like us to go into the --

13 THE COURT: Not a lot in to background;  
14 just certain amounts, yeah.

15 LORENZO VIDINO, Ph.D.

16 **having been first duly sworn, testified as follows:**

17 **DIRECT EXAMINATION**

18 **BY MS. MEEKS:**

19 Q. Thank you, Dr. Vidino.

20 Can you please give the Court an idea of your  
21 current employment and educational and professional  
22 background?

23 A. Sure. I'm currently the director of a research  
24 center called Program in Extremism, which is based  
25 out of George Washington University,

1 Washington, D.C.; I have a law degree from the  
2 University of Milan in Italy; I have a Master's in  
3 Security Studies in Middle East affairs in Fletcher  
4 School of Diplomacy; and I have Doctorate of Studies  
5 in the Middle East from Fletcher School.

6 Q. How many years have you been involved in the  
7 study of extremism?

8 A. Nineteen.

9 Q. And can you tell us a little bit about what the  
10 program is out of George Washington that you run?

11 A. Basically what we specialize on is the  
12 ISIS-related mobilization, mostly in the United  
13 States. Not only we cover other parts of the world,  
14 but the main focus is on radicalization and  
15 mobilization patterns related to ISIS in the United  
16 States.

17 THE COURT: We're talking about ISIL here,  
18 aren't we?

19 MS. MEEKS: Your Honor, it's one and the  
20 same. ISIS/ISIL are the same.

21 THE COURT: ISIS/ISIL, they're the same.  
22 I didn't know that.

23 THE WITNESS: Yes, yes, yes. I can use  
24 ISIL if you prefer; it's the same.

25 A. What we do basically is we -- we research

1 trends. We try to investigate all the cases  
2 studied, all the cases that hit the court system.  
3 That means getting all the court documents, trying  
4 to -- from several of them, not all of them, of  
5 course, we can't for all of them, try to talk to as  
6 many people as possible who have knowledge in the  
7 case. That means in some cases even the defendant,  
8 himself or herself, you know, prosecutors, FBI  
9 agents, defense attorneys, family members,  
10 journalists, whoever can potentially have knowledge  
11 on the case.

12 We try to extract trends which are a  
13 quantitative and qualitative analysis of the  
14 information. And what we do is we compare it with  
15 the academic literature. Most of what we do is peer  
16 reviewed. That means it's subjected to the  
17 assessment of the scholarly community.

18 Q. (By Ms. Meeks) Okay. So let's talk about  
19 that. Speaking of peer-reviewed, your work has been  
20 published?

21 A. Yes.

22 Q. Can you give us a synopsis of some of the work  
23 that you have had published? And has that been in  
24 journals or books or have you co-authored? Can you  
25 expand on that?

1 A. Sure. I published six books, several of which  
2 are peer-reviewed. My latest one is from Columbia  
3 University Press. I have published, I believe,  
4 around 20 journal articles. All journal articles  
5 are peer-reviewed. That means that it goes to an  
6 editing process. There's an editor that makes the  
7 first decision on whether it's a scholarly-sound  
8 product. And then it will go to at least peer  
9 reviewers who will review the paper. And only ones  
10 that get past those steps they publish the article.

11 I have contributed, I would say, probably  
12 around 15 chapters to edited books. And then I have  
13 probably more than 100 articles in terms of op-eds  
14 or analysis and around probably 15, 20 reports.  
15 Reports are generally something that falls a bit  
16 short of a book, 50, 70 pages. What we do is we  
17 make that information public. We publish as pdf on  
18 our website. But all of it is also peer-reviewed,  
19 because we run a lot of our products by other  
20 experts just to make sure that it's a correct  
21 analysis.

22 Q. Okay. Have you also testified in other cases,  
23 other criminal cases with regard to terrorism?

24 A. Yes, I have.

25 Q. Are those federal cases?

1 A. Yes.

2 Q. Federal trials?

3 A. Yes.

4 Q. How many?

5 A. In court I believe seven, six or seven.

6 Q. Okay. And have you testified -- and that was  
7 as an expert?

8 A. As an expert, correct.

9 Q. Have you also testified before Congress?

10 A. I have on five occasions.

11 Q. In what capacity?

12 A. As an expert in front of -- from both Senate  
13 and House, talking about different aspects of  
14 terrorism, radicalization.

15 Q. Do you also participate in international  
16 forums?

17 A. Very frequently. I'm invited to conferences  
18 which are organized by universities, think tanks,  
19 government agencies, other parliaments in other  
20 parts of the world, but I do that very frequently.

21 Q. Do you appear on television or radio?

22 A. That's also part of the job; I do it very  
23 frequently.

24 Q. And in what capacity?

25 A. As one of those talking heads. We go on TV and

1 talk about terrorism. Sometimes it's a very short  
2 commentary, those kind of 30-second soundbites.  
3 Other times is what I prefer, just longer analysis,  
4 just kind of panels or the commentaries. But, yeah,  
5 I work a lot with the media.

6 Q. Let's go a little bit more into the Center, the  
7 way in which you and the Center conduct research.  
8 So can you give us an idea if it's field research,  
9 academia and what's involved in those?

10 A. A little bit of both. What we try to do is try  
11 to get information from as many sources as possible,  
12 and that's probably the best way to corroborate all  
13 that information. So as I said, we focus very much  
14 on the cases that hit the court system. Those are  
15 public.

16 And what we do is, we get all the documents  
17 available. We spend a lot of money on PACER, and we  
18 get basically all the documents. Then, of course,  
19 we try to talk to as many people as possible. Now,  
20 obviously, maybe around 140 cases related to ISIL in  
21 the U.S., we cannot investigate all of those to the  
22 same depth. But for some we will try to talk to FBI  
23 agents, prosecutors, defense attorneys, family  
24 members, whoever might have knowledge on the case  
25 that might help us understand better the dynamics of

1 the case.

2 We also have a team of three or four younger  
3 analysts that spend a lot of time online, basically  
4 sort of surveying what is being talked about in what  
5 I would call the ISIL bubble on certain social media  
6 platforms, FaceBook, Twitter, Telegram, and try to  
7 get a sense of what this community of ISIL  
8 sympathizers talks about, and we bring all this  
9 information together.

10 A big part of that, of course, is  
11 understanding what our colleagues, our peers, are  
12 doing, what the publications out there are, what  
13 government agencies are assessing the dynamics to  
14 be, and, again, trying to bring all that information  
15 together.

16 Q. So you work with other government agencies or  
17 you collaborate with government agencies or  
18 think tanks or non-profits or NGOs, is that also  
19 correct?

20 A. Yes. We are independent. We don't receive any  
21 funding from the government. But we do work very  
22 closely with a variety of agencies, whether that  
23 means just informal conversations or at times we  
24 provide workshops, training for the Department of  
25 Defense, State Department, FBI, a variety of



1 agencies in the U.S. We also receive and do a lot  
2 of work in Europe. I was three weeks ago in  
3 Singapore working with the Singaporean government.  
4 So it's fairly common.

5 And also we are part of a community of  
6 academics, of universities, of research centers, of  
7 think tanks that study terrorism, that research  
8 terrorism. And that cooperation is important for  
9 us. It's the way you bounce off ideas and you  
10 compare trends. That exchange is very common. So  
11 we have partnerships with different universities in  
12 the U.K., the Netherlands, Italy and Austria, and we  
13 work with them.

14 Q. How does the Center find particular cases that  
15 it wants to explore in more detail? How do you make  
16 that decision?

17 A. Well, it depends on what topic, what aspect  
18 we're specifically interested in. I would say it's  
19 a combination of factors that lead us to choose  
20 which cases to focus on rather than others. Part of  
21 it is how interesting the case is. For example, we  
22 are currently working on a report on terrorism  
23 financing and looking at how individuals link to  
24 ISIS funded themselves or provided funding to ISIS.  
25 So of course some cases will be more interesting

1 than others, because there's more money involved or  
2 there's passages of money from overseas to the U.S.  
3 or vice versa. So those cases might be more  
4 interesting, and we will try to focus more on those.

5 Another factor, of course, is how  
6 accessible the information is. Is it possible for  
7 us to obtain more information. At times it's really  
8 logistics. We know more people in a certain  
9 location rather than another place. Obviously  
10 nobody can cover everything, and we -- we make  
11 choices.

12 Q. Okay. This is a field of study. Would you  
13 call it a social science or humanities field of  
14 study?

15 A. Yeah, it's part of social science. I would  
16 call it terrorism studies, which is part of the  
17 humanities.

18 Q. All right. So is this an exact science?

19 A. It's not a hard science; like all humanities,  
20 it's not an exact science.

21 Q. So tell us how you come to your conclusions  
22 then.

23 A. You get as much information as possible. You  
24 try to come up with all possible alternative  
25 explanations. You provide all caveats possible.

1 We're very careful in our methodology section. So  
2 whatever we do, we explain that the information we  
3 have is only partial; that, particularly when it  
4 comes to radicalization, no two cases are alike, but  
5 the dynamics are very complex.

6 What we can extract are trends. We do sort of  
7 a both, as I said, a quantitative and qualitative  
8 analysis, which is based inevitably on partial  
9 information but still allows us to see trends. It's  
10 an analysis that is still very valid. The products  
11 that I put out or my center puts out is relied upon  
12 by a variety of bodies in the U.S. Government or in  
13 other places. But that's basically how it works in  
14 the humanities.

15 THE COURT: What's an example of something  
16 you found that turned into a trend?

17 THE WITNESS: We looked quite a bit at the  
18 online aspect of it, the shift from open platforms,  
19 like FaceBook and Twitter, to more encrypted  
20 applications, like Telegram and basically how the  
21 sort of ISIS sympathizers online were directing  
22 people to go to those platforms.

23 We do a lot of work. We published three  
24 reports on those online dynamics. And that's  
25 something that we also worked with some of the

1 giants in Silicon Valley on, tried to make them  
2 understand how their platforms were being used and  
3 abused by ISIS sympathizers.

4 THE COURT: Okay. Thank you.

5 Q. (By Ms. Meeks) And you had talked about the  
6 professional community encompassing universities and  
7 think tanks. Can you give us some examples of the  
8 sort of think tanks that you were discussing or that  
9 you were mentioning?

10 A. Yeah. We have different sort of working  
11 partnerships with institutions that range from some  
12 of the big Washington think tanks, from Brookings,  
13 Heritage, CSIS, those sort of places.

14 Last week we did a big event of the 9/11  
15 Memorial Museum in New York, which is also a  
16 research component. We have a partnership with the  
17 New York Times to archive and analyze ISIS files.  
18 The New York Times reporters obtained in Iraq a  
19 massive amount of documents, 15,000 documents. We  
20 are also academic partners with the New York Times  
21 in that project.

22 We work a lot with the European think tanks.  
23 Just to give you an idea, next week I will be in  
24 Europe. I will be doing an event with an Italian  
25 think tank. Then I will be in London the second

1 part of the weekend, and I will be doing an event  
2 with King's College in London. And that's sort of  
3 the dynamics we have. And at times it means  
4 co-publishing a report, exchanging information.

5 Q. So would you consider that your opinion and  
6 that of your center is generally accepted or  
7 widespread -- is accepted widespread?

8 A. I would say so.

9 Q. Okay.

10 MS. MEEKS: One moment, Your Honor.

11 THE COURT: Okay.

12 MS. MEEKS: Your Honor, would you like us  
13 to summarize some of what his testimony would cover?

14 THE COURT: I would like to hear a little  
15 bit more about why it would be helpful in this case  
16 and relevant in this case and just along those  
17 lines. You know, I know what he knows now. How is  
18 he going to use it in this case?

19 MS. MEEKS: Yes, Your Honor.

20 Q. (By Ms. Meeks) Dr. Vidino, have you had an  
21 opportunity to review the transcripts from the Zello  
22 application in this case?

23 A. Yes, I have.

24 Q. And are you familiar with the details involving  
25 the defendant, Said Rahim?

1 A. Yes.

2 Q. What areas generally are you able to talk about  
3 that would give you specialized knowledge that would  
4 help the jury to process this information in a  
5 certain context?

6 A. Sure. I would say that many of the dynamics  
7 fit very much into what I have been studying for the  
8 last -- at least since the ISIS mobilization started  
9 the last five or six years; how the online community  
10 functions; how the individuals of ISIS sympathizers  
11 communicate with one another; what kinds of things  
12 they discuss; what the dynamics and hierarchies in  
13 those channels are; a lot of the jargon that is used  
14 in those conversations; a lot of the terminology  
15 that is common to ISIS supporters; I guess the  
16 dynamics of radicalization and mobilization; how  
17 people talk about certain things; progress that's  
18 called the radicalization trajectory and then  
19 eventually the site to mobilize, which means  
20 traveling to join ISIS or plan to carry out attacks  
21 in some other parts of the world.

22 Q. Are these complex issues in and of themselves?

23 A. I would say so, yes.

24 Q. And do they change through time?

25 A. Very much so.

1 Q. So you've had the opportunity to study an  
2 evolution, would you say?

3 A. Yeah, absolutely.

4 Q. Okay. And does that evolution consist of  
5 religious or social or geopolitical aspects?

6 A. It's a combination of all of the above.

7 Q. You will also be talking about the use of  
8 social media; is that correct?

9 A. Yes.

10 Q. Can you give us an idea of how your studies in  
11 social media can assist the fact-finder in this case  
12 in processing the information from Zello?

13 A. Zello, like other more common platforms, has  
14 been used by ISIS sympathizers as a way to  
15 communicate, to react with like-minded individuals.  
16 On these platforms, what normally happens is that  
17 you have more experience in charismatic individuals  
18 that sort of coach and guide less experienced but  
19 equally interested and enthusiastic ISIS supporters.

20 Basically what happens on these platforms  
21 is you have a formation of a community of  
22 individuals. People get their sense of belonging,  
23 of being part of something bigger than themselves  
24 wherever they are in the world. They have a sense  
25 of belonging. And in many cases, from simply being

1 part of an online community and just interacting  
2 online, people take the next step, which is  
3 mobilizing. Those dynamics are very common. That's  
4 how ISIS uses social media.

5 Q. Okay. And in some of the communications you've  
6 had a chance to review, are there specific -- you  
7 had mentioned jargon -- certain terms of art that  
8 are used?

9 A. Yes. They draw from Arabic language and from  
10 mainstream Islamic theology or specifically what is  
11 called jihadist jargon.

12 Q. Are you familiar with that type of -- those  
13 terms of art?

14 A. Yes, very much so.

15 Q. And do you have the ability to communicate that  
16 in a meaning just beyond the word but to the context  
17 to the fact-finder?

18 A. Yes. Because in many of these cases, there's a  
19 specific meaning that is used by people in the  
20 jihadist world, which is different from the most  
21 common meaning that the word would have in Arabic.

22 Q. Okay. And what about individuals that would be  
23 considered -- or could be considered ISIS  
24 leadership? Are you familiar with certain names  
25 that have been used in the transcripts?



1 A. Yes.

2 Q. What are you able to tell the jury and the  
3 fact-finder with regard to those names? What kind  
4 of background can you provide?

5 A. I study ISIS leadership, especially some of the  
6 individuals mentioned on the platform are some of  
7 the top leaders of ISIS. And I can explain to the  
8 jury their origin, their position within the group,  
9 the importance of their standing and some of the  
10 messages they send out to their supporters.

11 Q. Are you also familiar with certain -- are you  
12 familiar with the transcripts that the defendant had  
13 referenced certain terrorist attacks?

14 A. Yes.

15 Q. Particularly one that occurred in Nice, France?

16 A. Yes.

17 Q. And one that occurred in Istanbul, Turkey and  
18 Orlando, Florida?

19 A. Yes.

20 Q. Are you familiar with those attacks?

21 A. Yes.

22 Q. And are you able to discuss how that -- the way  
23 that those incidents has related to ISIS and how  
24 ISIS has been interwoven with them?

25 A. Yes.

1 MS. MEEKS: One moment, Your Honor.  
2 Unless the Court has more questions,  
3 that's all I have.

4 THE COURT: No.  
5 Mr. Whalen.

6 **CROSS-EXAMINATION**

7 **BY MR. WHALEN:**

8 Q. Dr. Vidino, good morning.

9 A. Good morning.

10 Q. Just kind of cut to the chase. What exactly is  
11 the opinion that you intend to render to this jury,  
12 if allowed to? What is your opinion?

13 A. On what topic?

14 Q. Well, you were called as it relates to  
15 Mr. Rahim. Do you have a specific opinion that you  
16 intend to render to this jury about his actions or  
17 behavior?

18 A. I think in general, I think my opinion is that  
19 in the conversations that we -- that we see, we  
20 conceive as somebody who clearly has very good  
21 knowledge of what ISIS is, the jargon, the language,  
22 very deep knowledge of that by American standards,  
23 very deep knowledge, and clearly somebody that is  
24 charismatic and sort of takes for himself a position  
25 of leadership, if you will, in their community. And

1 the fact that other people in the -- in that channel  
2 refer to him with the title of Sheikh, which is  
3 obviously a title that comes from a certain stature,  
4 indicates that people look up to him. That tells me  
5 that this is somebody who is very important in their  
6 community. Yeah, that's the general gist of it.

7 Q. In your previous times you that testified --  
8 let me strike that.

9 When was the first time that you heard of a  
10 social platform called Zello?

11 A. I can't recall a specific date. I would say  
12 probably around a year and a half ago, two years  
13 ago.

14 Q. Was it a year and a half ago in relation to  
15 this case, or had you heard of it in relation to  
16 another case?

17 A. It was in relation to this case, I believe.

18 Q. And you agree with me, in your prior testimony  
19 you never referred to Zello or were familiar with  
20 Zello, correct?

21 A. Correct.

22 Q. Okay. So what knowledge do you have as it  
23 relates to how Zello is structured or used as it  
24 relates to FaceBook, Twitter or Telegram?

25 A. On Zello specifically, none. I have knowledge

1 in other platforms.

2 Q. Okay. And part of your -- you're not going  
3 to -- strike that.

4 Since you have been studying this for the last  
5 five years, how do you -- are you just relating what  
6 you have learned in the last five years and looking  
7 at it and saying this looks similar to the other  
8 things that you studied, and therefore that's what  
9 Mr. Rahim may have been doing? Is that pretty much  
10 it?

11 A. To some degree, I guess.

12 Q. Okay. What did you actually listen to in  
13 preparation for your testimony today in forming your  
14 opinions? So what exactly did you review?

15 A. I have access to the evidence. I have access  
16 to the online conversations.

17 Q. Okay. How many online conversations did you  
18 listen to?

19 A. I had the transcripts, I believe, of all of  
20 them. Most of them I had the transcript and  
21 listened to.

22 Q. As far as the transcripts, those are the ones  
23 given to you by the government, correct?

24 A. Correct.

25 Q. You did not listen to all of the recordings on

1 Zello yourself or had somebody else in your office  
2 listen to them and translate them from Arabic to  
3 English?

4 A. Did not.

5 Q. Just so I understand it clearly, it was  
6 indicated that your testimony was going to be  
7 somewhat -- state that Mr. Rahim's behavior was a  
8 direct effort to recruit people on behalf of ISIS.  
9 You're not going to testify to that. That's not  
10 your opinion, is it?

11 A. It depends on what you mean by "on behalf of  
12 ISIS"; that Mr. Rahim has a leadership position on  
13 that platform and pushes people to embrace ISIS'  
14 world view and then clearly has connections within  
15 ISIS that he can connect his interlocutors with ISIS  
16 leadership, then yes.

17 Q. Okay. So tell me how you determined -- well,  
18 let me back up.

19 This chat room was not, for lack of a better  
20 word, an official ISIS platform, correct?

21 A. Not an official one, yes.

22 Q. So what do you rely on to form the opinion that  
23 he was connected with actual leadership of ISIS?

24 A. He makes a case repeatedly himself. He  
25 repeatedly says that he has facilitated the

1 mobilization of certain individuals, but thanks to  
2 conversations with him and connections he had, they  
3 joined ISIS.

4 Q. And do you know specifically who "they" were?

5 A. I don't.

6 Q. Okay. Can you -- are you going to give an  
7 opinion that you can point to specific examples of  
8 people that listen to Mr. Rahim and mobilized?

9 A. I don't.

10 Q. And will you be able to opine that anything he  
11 said is directly linked to any specific terrorist  
12 attack or activity?

13 A. Linked in an operational point of view, no;  
14 linked in a sense that he discusses terrorist  
15 attacks at length, yes. In one specific case he  
16 praises brothers who a few weeks after he had  
17 incited attacks, they carried out the attacks. From  
18 that point of view, yes; from an operational point  
19 of view, no.

20 MR. WHALEN: I'll pass the witness.

21 THE COURT: Ms. Meeks?

22 MS. MEEKS: Nothing further, Your Honor.

23 THE COURT: You may step down.

24 THE WITNESS: Thank you.

25 THE COURT: Any argument? Come up here.

1 Any argument, Ms. Meeks?

2 MS. MEEKS: From the government, Your  
3 Honor?

4 THE COURT: Yeah. And do you want him to  
5 stay in here?

6 MS. MEEKS: We would ask for an exception  
7 to the Rule for the expert.

8 MR. WHALEN: I have no objection.

9 THE COURT: All right.

10 MS. MEEKS: Your Honor, in terms of  
11 requirements under Daubert, the gatekeeping  
12 requirement is to ensure the reliability and the  
13 relevancy of the expert testimony.

14 In this case, what we have seen is that  
15 the reliability of Dr. Vidino's testimony is quite  
16 extensive. Not only does he provide information and  
17 participate domestically in educating and commenting  
18 and researching on ISIS and terrorism, but he also  
19 does so in the international community quite  
20 extensively.

21 As far as the ability to communicate with  
22 the jury these very complex ideas, these  
23 geopolitical, religious and social aspects to a  
24 terrorist organization I think is something that's  
25 highly important and relevant to the fact-finder and

1 would help them process context that otherwise might  
2 not be available.

3 He has extensive experience and background  
4 not only in sort of terms of art used by the  
5 extremist community, but also the leaders and how  
6 any reference of those in what would be -- could be  
7 a complicated matter to distill that information  
8 down to a way the fact-finder can process.

9 Your Honor, the proposed testimony is  
10 supported by good grounds as required under Daubert.  
11 And then it is a reliable basis and knowledge and  
12 experience as required under Kumho Tire.

13 So we think that this expert should be, as  
14 allowed under Daubert, a wide latitude to offer the  
15 opinions showing that it has the same intellectual  
16 rigor through his studies and through his vast  
17 amount of experience would be sufficient.

18 Thank you.

19 THE COURT: Thank you, Ms. Meeks. Okay.

20 Mr. Whalen.

21 MR. WHALEN: Your Honor, we don't disagree  
22 that he's qualified -- you know, he's qualified.  
23 This is what he does for a living. Our main concern  
24 is when it comes to expert opinions, that it invades  
25 the province of the jury's ability to make their own



1 findings. My concern with his testimony will be  
2 that if he opines in his opinion that this was a  
3 direct effort on Mr. Rahim's part to recruit people,  
4 that goes to the ultimate issue in the case, and I  
5 think that's for the jury to decide. I think he  
6 could testify this is what those words mean, but he  
7 can't get into Mr. Rahim's head and make some  
8 statement that, based on my experience, I think  
9 that's what he was doing. I think that's just his  
10 thought. But it's not -- if you cloud it in the --  
11 shroud it in it's an expert opinion, I think that  
12 does invade the province of the jury. And he  
13 shouldn't be allowed to testify as it relates to his  
14 opinion that this was a direct effort to recruit  
15 people. I think that is a jury decision, Your  
16 Honor.

17 THE COURT: Ms. Meeks, anything else on  
18 that?

19 MS. MEEKS: Your Honor, just to clarify  
20 the government does believe the expert, Dr. Vidino,  
21 would be in a position to talk about how the  
22 defendant's actions are consistent with ISIS  
23 recruitment efforts and the effect that that would  
24 have on other people.

25 THE COURT: I wanted to make sure that's

1 what you were going to do. Okay. Thank you.

2 MS. MEEKS: Thank you.

3 THE COURT: Federal Rule of Evidence 702  
4 permits an expert to offer testimony in the form of  
5 an opinion if his or her scientific, technical or  
6 other specialized knowledge will assist the trier of  
7 fact to understand the evidence or to determine a  
8 fact in issue. Provided: One, the testimony is  
9 based on sufficient facts or data; two, the  
10 testimony is a product of reliable principles and  
11 method; and three, the witness has applied the  
12 principles and methods reliably to the facts of the  
13 case.

14 In this particular case, there's no  
15 question that some testimony about how the workings  
16 of ISIS operate is going to be important. The  
17 Second Circuit in particular has repeatedly approved  
18 the admission of expert testimony for organized  
19 crime. And then there are all sorts of circuits  
20 that have approved Al Qaeda expert testimony  
21 on Al Qaeda methods and that type of thing. I could  
22 cite a bunch of them, but I will just cite to United  
23 States v. Kassir, 2009 Westlaw 910707, Southern  
24 District of New York 2009. And it cites a whole  
25 bunch of cases, including -- I'll let you look at

1 them. Starts with Damrah, 412 F.3d 618, 625,  
2 6th Circuit 2005, and it goes on.

3 So the expert testimony would certainly be  
4 helpful. And what I heard is it doesn't go too far  
5 in method or in scope, so I think it's okay. You  
6 know, the information is -- although there's lots of  
7 testimony -- lots of stuff out there about ISIS and  
8 Al Qaeda on the internet, it's really not the same  
9 as hearing from an expert, because some of that  
10 national news can be misleading. The jury will  
11 likely be unfamiliar with some of the lesser known  
12 terrorist organizations if he's going to testify  
13 about those. Reliability is -- is set. I mean,  
14 he's got all sorts of degrees and repeated  
15 peer-reviewed studies and things like that.

16 So I think without going into all of that,  
17 yes, it's reliable testimony. Although his  
18 methodology is not subject to testing and permits a  
19 no ready calculation of concrete error rate, it is  
20 more reliable than a simple cherry-picking of  
21 information from websites and other sources. The  
22 testimony and evidence at the Daubert hearing  
23 demonstrated that his opinions and conclusions are  
24 subject to various forms of peer review and that the  
25 opinions he proposes to offer here regarding

1 Al Qaeda's origins -- I mean ISIS origins, leaders  
2 and certain tradecraft are generally accepted within  
3 the relevant community. And his methodology, as he  
4 describes it, is similar to that employed by experts  
5 who have been permitted to testify in other federal  
6 cases.

7           Again, this is all -- I'm reading from the  
8 Kassir case at -- I don't know what page -- page 6.

9           And then, as far as the relevance and  
10 reliability, as long as it doesn't go too far -- and  
11 I think he can testify that he believed his --  
12 Mr. Rahim was recruiting, I think so, that his  
13 testimony is relevant and reliable to the issues in  
14 the case.

15           So for all those reasons -- and I've  
16 also -- I just found one case that he was involved  
17 in, United States v. Chaffey, Case Number 2018  
18 Westlaw 3159769; that's 2018 Westlaw 3159769 out of  
19 the Central District of California -- no, no,  
20 Northern District of California, 6-28-18. And he  
21 testified in that case, very similar testimony about  
22 ISIS and was allowed to do it. So I find all those  
23 reasons supported and supportable for allowing his  
24 testimony and I will allow it.

25           Okay. What else do we have?

1           Do we have something about the experts on  
2 the exhibits?

3           MS. MEEKS: Oh, Your Honor, I just had one  
4 further question with regard to Dr. Vidino's  
5 testimony, if I may.

6           With regard to the motion in limine that  
7 the Court had issued last week, Dr. Vidino uses a  
8 couple of examples, including the San Bernardino  
9 terrorist attack and the Garland, Texas, terrorist  
10 attack in discussing the types of attacks that are  
11 committed by ISIS and the ways that they are  
12 committed. It's narrow testimony, and it's not very  
13 extensive, but those are the ones he typically uses.

14          THE COURT: I think I said -- I allowed  
15 that. I mean, Rahim moved to preclude any evidence  
16 or reference related to terrorist attacks not  
17 directly at issue in the case. I granted in part  
18 and denied in part that the government may refer to  
19 terrorist attacks related to the case; for example,  
20 attacks they can tie in some way to Rahim, somehow  
21 talking about them, and I think that's fine. And  
22 you can also talk about 9/11 to the extent it's  
23 background information.

24          MS. MEEKS: Yes, Your Honor.

25          THE COURT: Does that help you? I mean,

1 is that all you had?

2 MS. MEEKS: So the defendant -- the  
3 defendant may not mention the specific  
4 San Bernardino and Garland attacks, but they are  
5 part of Dr. Vidino's typical expert testimony in the  
6 way he uses them to describe. So I just wanted --

7 THE COURT: Well, you know, I think he  
8 should stick to what he was talking about, you know,  
9 San Bernardino -- you know, if he's just talking  
10 about that in general and not tying Rahim to it, I  
11 think that's okay just generally.

12 MS. MEEKS: Yes, Your Honor. Thank you.

13 THE COURT: What else did you have? Do we  
14 have the expert on the exhibits or the witness on  
15 the exhibits?

16 MS. MEEKS: Yes, Your Honor. We also have  
17 Special Agent Fine here to talk about the 902 issue  
18 and the affidavit we were discussing earlier, if the  
19 Court would like that.

20 THE COURT: Yes, that's what I'm talking  
21 about, yes.

22 (Record sealed; filed separately.)

23 \*\*\*\*\*

24 (Record resumes.)

25 THE COURT: Let me just go through

1 everything.

2 I've got your jury questions. I'm  
3 probably not going to ask all of them because you  
4 have that huge questionnaire now. Come back around  
5 1:00, and I think we will have those copied for you  
6 and ready to go. And the defense is going to stay  
7 in here and the government can go back to your  
8 office or in the jury room.

9 MR. WHALEN: Your Honor, we don't mind  
10 staying in the courtroom, but can we request that  
11 the audio recording be turned off?

12 THE COURT: Yes. I don't listen to it  
13 anyway, but I will make sure it's turned off.

14 Any more motions in limine?

15 MS. MARTIN: No, Your Honor.

16 MR. WHALEN: One last.

17 THE COURT: Yeah.

18 MR. WHALEN: As relates to if we're going  
19 to work in here that -- we would make the request  
20 that the courtroom be limited to not public people  
21 during that time.

22 THE COURT: Oh, yeah. No one is in here  
23 except you; no one, except maybe the bailiff  
24 occasionally, but that's it.

25 MR. WHALEN: Okay. I wanted to make sure.

1 Thank you.

2 THE COURT: Yeah. No objections to  
3 witnesses? Specific objections to witnesses?

4 MS. MARTIN: None from the government,  
5 Your Honor.

6 THE COURT: Mr. Whalen?

7 MR. WHALEN: None that I can think of,  
8 Your Honor.

9 THE COURT: Uh-huh. How about summaries?  
10 Do you have 1006 summaries?

11 MS. MARTIN: Yes, Your Honor, we do  
12 have -- I believe the government does have two  
13 summary exhibits.

14 THE COURT: And they are not on the  
15 preadmitted exhibit list.

16 MS. MARTIN: Let me make sure. That's a  
17 good question. They may have been preadmitted.

18 Yes, they were preadmitted.

19 THE COURT: Pedagogical summaries, other  
20 summaries that are not evidence but demonstrative.

21 MS. MARTIN: Your Honor, we anticipate  
22 there may be some demonstratives with the witness  
23 from Zello, just so the jury understands how it  
24 operates, pictures, so the jury will understand what  
25 it is and how it operates.



1 THE COURT: Mr. Whalen, any comments?

2 MR. WHALEN: No.

3 MS. MARTIN: Your Honor, we will provide  
4 those to Mr. Whalen before he testifies.

5 THE COURT: Be sure to provide him your  
6 next day's testimony. And I think you will have  
7 some witnesses tomorrow, so be sure to give him  
8 those. Time for opening statement, I have given you  
9 a half an hour.

10 I don't really like speaking objections,  
11 so please avoid those unless you can, but I really  
12 appreciate if you can. I don't have anything else.  
13 I would like to start with the jury selection first  
14 thing tomorrow morning at 9:00. I'll see you later  
15 today because you will be here to get the  
16 questionnaires.

17 Nothing else, Ms. Martin?

18 MS. MARTIN: No, Your Honor.

19 THE COURT: Mr. Whalen?

20 MR. WHALEN: No, Your Honor.

21 THE COURT: We will be in recess.

22 (Court in recess at 10:01 a.m.)  
23  
24  
25

C E R T I F I C A T E

I, Shawnie Archuleta, CCR/CRR, certify  
that the foregoing is a transcript from the record  
of the proceedings in the foregoing entitled matter.

I further certify that the transcript fees  
format comply with those prescribed by the Court and  
the Judicial Conference of the United States.

This 21st day of March 2020.

s/Shawnie Archuleta  
Shawnie Archuleta CCR No. 7533  
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